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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-343

11 **ARDICE J. HOAGLAND**

12 9129 Mandel St.
13 Denver, CO 80221

DEFAULT DECISION AND ORDER

14 Registered Nurse License No. 575795

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about December 2, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2012-343 against Ardice J. Hoagland ("Respondent")
before the Board of Registered Nursing. (Accusation attached as **Exhibit A.**)

20 2. On or about January 9, 2001, the Board of Registered Nursing ("Board") issued
21 Registered Nurse License No. 575795 to Respondent. The Registered Nurse License expired on
22 February 28, 2005, and has not been renewed.

23 3. On or about December 2, 2011, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-343, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
28 which was and is:

1 9129 Mandel St.
2 Denver, CO 80221.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. The United States Postal Service certified mailing was delivered on December 10,
7 2011. On or about December 27, 2011, Respondent failed to file a timely Notice of Defense.

8 6. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
16 343.

17 8. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 2012-343, finds
27 that the charges and allegations in Accusation No. 2012-343, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

10 Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
12 and Enforcement is \$442.50 as of December 27, 2011.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Ardice J. Hoagland has subjected her Registered Nurse License No. 575795 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code for unprofessional conduct because Respondent was disciplined by the State Board of Nursing of the State of Colorado for diverting Demerol, a controlled substance, from patient wastage and for violating the terms of her Colorado Nurse Health Program ("CNHP") contract by submitting positive urine screens. The conduct is described in more particularity in Accusation No. 2012-343, inclusive and herein incorporated by reference.

b. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code for unprofessional conduct. The conduct is described in more particularity in Accusation No. 2012-343, inclusive and herein incorporated by reference.

c. Respondent is subject to disciplinary action under section 2762, subdivision (a) of the Code for obtaining Demerol, a controlled substance, from patient wastage. The conduct is described in more particularity in Accusation No. 2012-343, inclusive and herein incorporated by reference.

d. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the Code for using alcohol, codeine, ephedrine and butalbital, in violation of her CNHP contract. The conduct is described in more particularity in Accusation No. 2012-343, inclusive and herein incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 575795, heretofore issued to Respondent Ardice J. Hoagland, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 16, 2012.

It is so ORDERED July 17, 2012


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51062212.DOC
DOJ Matter ID: LA2011505321

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 GLORIA A. BARRIOS
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2012-343*

13 **ARDICE J. HOAGLAND**

A C C U S A T I O N

14 9129 Mandel St.
Denver, CO 80221

15 Registered Nurse License No. 575795

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about January 9, 2001, the Board of Registered Nursing issued Registered
23 Nurse License Number 575795 to Ardice J. Hoagland ("Respondent"). The Registered Nurse
24 License expired on February 28, 2005, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license.

8 6. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended,
9 expired, forfeited, cancelled, or surrendered licenses:

10 "The suspension, expiration, or forfeiture by operation of law of a license issued by a
11 board in the department, or its suspension, forfeiture, or cancellation by order of the
12 board or by order of a court of law, or its surrender without the written consent of the
13 board, shall not, during any period in which it may be renewed, restored, reissued, or
14 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground."

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed
nurse or deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the
18 following:

19 ...

20 (4) Denial of licensure, revocation, suspension, restriction, or any other
disciplinary action against a health care professional license or certificate by another
21 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
22 or judgment shall be conclusive evidence of that action."

23 8. Section 2762 of the Code states:

24 "In addition to other acts constituting unprofessional conduct within the
meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
25 person licensed under this chapter to do any of the following:

26 (a) Obtain or possess in violation of law, or prescribe, or except as
directed by a licensed physician and surgeon, dentist, or podiatrist administer to
27 himself or herself, or furnish or administer to another, any controlled substance as
defined in Division 10 (commencing with Section 11000) of the Health and Safety
28 Code or any dangerous drug or dangerous device as defined in Section 4022.

1 (b) Use any controlled substance as defined in Division 10 (commencing
2 with Section 11000) of the Health and Safety Code, or any dangerous drug or
3 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
4 in a manner dangerous or injurious to himself or herself, any other person, or the
5 public or to the extent that such use impairs his or her ability to conduct with safety to
6 the public the practice authorized by his or her license.

7 ...

8 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
9 unintelligible entries in any hospital, patient, or other record pertaining to the
10 substances described in subdivision (a) of this section."

11 COST RECOVERY

12 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 FIRST CAUSE FOR DISCIPLINE

17 **(Disciplinary Action by the State Board of Nursing of the State of Colorado)**

18 10. Respondent is subject to disciplinary action under Section 2761, subdivision (a)(4) of
19 the Code on the grounds of unprofessional conduct because she was disciplined by the State
20 Board of Nursing of the State of Colorado ("Colorado Board"), as follows:

21 11. On or about July 15, 2005, Respondent signed and the Board accepted the Stipulation
22 and Final Agency Order in the disciplinary action entitled, *In the Matter of Disciplinary*
23 *Proceedings Regarding the License to Practice Professional Nursing in the State of Colorado of*
24 *Ardice Hoagland, RN, License No. 63557*. In the Final Agency Order, the parties stipulated to the
25 relinquishment of Respondent's license. The relinquishment had the full force and effect as a
26 revocation ordered by the Board. The circumstances underlying the relinquishment of
27 Respondent's license by the Colorado Board are as follows:

28 a. In or about October 1997, while employed as a professional nurse, Respondent
diverted and used Demerol, a controlled substance, from patient wastage.

Respondent was terminated from her employment in January 1998 when the

1 diversion was discovered. Respondent then admitted herself to West Pines
2 Chemical Dependency Center.

3 b. In or about March 1998, Respondent voluntarily applied for and was accepted
4 into the Colorado Nurse Health Program ("CNHP"). Respondent signed a
5 contract with CNHP in April 1998. The terms of Respondent's contract with
6 CNHP were subject to modifications and included requirements that Respondent
7 abstain from mood-altering drugs/alcohol and/or potentially addicting
8 medications, submit to random urine screens, participate in individual therapy and
9 cause the therapist to submit reports to CNHP.

10 c. Respondent violated the terms of her CNHP contract by missing scheduled
11 urine drug screens, submitting eight (8) dilute urine specimens, missing scheduled
12 breathalyzers, and having missing or late therapist and urine screen reports.

13 d. Respondent also violated the terms of her CNHP contract by submitting
14 positive urine screens, as follows:

15 i. On April 14, 2000, Respondent tested positive in a urine drug screen for
16 alcohol.

17 ii. On November 28, 2000, Respondent tested positive in a urine drug screen
18 for codeine, a controlled substance. Respondent admitted that she took
19 this medication from a family member.

20 iii. On April 24, 2001, Respondent tested positive in a urine drug screen for
21 ephedrine, a controlled substance. Respondent recognized that this
22 decongestant was not on the list of approved medications.

23 iv. On December 13, 2001, Respondent tested positive in a urine drug screen
24 for butalbital, a controlled substance.

25 v. On June 12, 2004, Respondent tested positive in a urine drug screen for
26 alcohol.

27 vi. On September 7, 2004, Respondent tested positive in a urine drug screen
28 for butalbital, a controlled substance.

1 e. CNHP extended the duration of Respondent's contract for her noncompliance.
2 In September 2004, CNHP terminated Respondent from the program for
3 substantial noncompliance with her contract and referred Respondent's case back
4 to the Board for discipline.

5 12. Under Section 2761 subdivision (a)(4) of the Code, the Colorado Board's disciplinary
6 action against Respondent is ground for the California Board to take disciplinary action.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
10 Code on the grounds of unprofessional conduct. The conduct is described in more particularity in
11 paragraph 10 and paragraph 11, subdivisions (a) through (e), above, inclusive and herein
12 incorporated by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Drug-Related Transgressions)**

15 14. Respondent is subject to disciplinary action under Section 2762, subdivision (a) of the
16 Code for obtaining Demerol, a controlled substance, from patient wastage. The conduct is
17 described in more particularity in paragraph 10 and paragraph 11, subdivision (a), above,
18 inclusive and herein incorporated by reference.

19 15. Respondent is subject to disciplinary action under Section 2762, subdivision (b) of
20 the Code for using alcohol, codeine, ephedrine and butalbital in violation of her CNHP contract.
21 The conduct is described in more particularity in paragraph 10 and paragraph 11, subdivisions (b)
22 through (e), above, inclusive and herein incorporated by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 575795, issued to Ardice J. Hoagland;
2. Ordering Ardice J. Hoagland to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 2, 2011 Ardice J. Hoagland
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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